



February 23, 2011

Jim Henderson  
Local Enforcement Agency  
County of San Diego Department of Environmental Health  
5500 Overland Avenue, Suite 110  
San Diego, CA 92123

Via US Mail and email to [DEHComments@sdcountry.ca.gov](mailto:DEHComments@sdcountry.ca.gov)

Re: Solid Waste Permit for the proposed Gregory Canyon landfill

Dear Mr. Henderson:

Environmental Health Coalition (EHC) is a community-based environmental justice organization working in the San Diego/Tijuana region. EHC is committed to protecting the local waters and achieving environmental justice for the impacted community members in the case of the proposed Gregory Canyon dump. EHC opposes this tragically flawed proposal to place a landfill adjacent to the San Luis Rey River, threatening the drinking water for local residents and the entire city of Oceanside, and desecrating Native American sacred sites.

EHC believes that the LEA must deny the solid waste permit for the proposed landfill, based on the severe, unmitigable environmental justice and water quality impacts of the project.

## **ENVIRONMENTAL JUSTICE**

### **CalEPA Environmental Justice Strategy**

In this permitting process, the LEA is acting as the Solid Waste Local Enforcement Agency for the State of California, in effect the local arm of CalRecycle. CalRecycle, like its predecessor, the California Integrated Waste Management Board, is a member agency of the California Environmental Protection Agency. According to its Intra-Agency Strategy for Environmental Justice, “**Cal/EPA is committed to the achievement of environmental justice.**” Environmental justice (EJ) is defined in California law (Government Code section 65040.12) as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies.”

Pursuant to Public Resources Code (PRC) sections 71110-71113, Cal/EPA developed the intra-agency (agency-wide) strategy to identify and address any gaps in existing programs, policies, and activities that may impede the achievement of environmental justice. The second of the four goals of the CalEPA Intra-Agency Environmental Justice Strategy is:

“Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.”

Cal/EPA’s objectives for Goal 2 are the following (*italics added*):

- A. Identify and address environmental justice issues when developing and revising programs (**including permitting programs**), policies, and activities.
- B. Ensure adequate and fair deployment of enforcement resources.
- C. Give high priority to actions (e.g., funding criteria) that will address environmental justice problems.
- D. Dedicate resources and identify staff members responsible for assuring that the Boards, Departments, and Office of Cal/EPA properly considers and addresses existing and potential environmental justice problems.
- E. Identify where a **precautionary approach** is currently being used, or could be used, to address environmental justice issues.
- F. Identify and address any disproportionate economic areas, including **Tribal areas** and rural counties, in development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
- G. Consult with appropriate stakeholders including **Tribes**, local government and/or local elected officials, regarding their priorities and concerns prior to developing or revising program elements, rules, or policies.

It is clear from the CalEPA Environmental Justice Strategy and its goals and objectives that the LEA, in its permitting decisions, must:

- Address disproportionate impacts on tribes;
- Consider precautionary approaches; and
- Consult with tribes regarding their priorities and concerns.

To date, the regulatory process for the proposed landfill has utterly failed to do any of these.

**Disproportionate impact.** EHC’s most recent look at this revealed that this project will place inequitable burdens on people of color and low income people.

The proposal of this project is part of disturbing trend that we can see through San Diego. In the seven existing or proposed landfills in the county, five (including this one) are located in areas where poverty levels exceed the national average. Six of seven (including this one) are in zip codes that where the average percent of people of color is higher than the County average.

In addition, the subsistence and religious use of native species such as the California Steelhead trout which we are trying to recover to the river must be factored into the environmental justice analysis. Such consideration is justified in the American Indian Religious Freedom Act which recognized the "inherent right" of American citizens to religious freedom; admitted that in the past the U.S. government had not protected the religious freedom of American Indians; proclaimed the "indispensable and irreplaceable" role of religion "as an integral part of Indian life"; and called upon governmental agencies to "protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions." The resolution referred specifically to Indians' access to sacred sites and the use of natural resources.

<https://mail.environmentalhealth.org/owa/redir.aspx?C=9895f75d7510442fa5daae7e4ba65467&URL=http%3a%2f%2fwww.answers.com%2ftopic%2famerican-indian-religious-freedom-act>

**Precautionary approaches.** It is not precautionary to place a landfill on the banks of a river. It is not precautionary to hope that this liner, unlike every other one in history, will not ultimately leak and contaminate the drinking water of future generations. It is not precautionary to assume that those future generations will continuously provide the resources to safely guard our wastes, which we so foolishly dumped near their river. Instead, the precautionary approaches to solid waste management are to move expeditiously toward zero waste, and to site any new facilities far from water bodies.

**Tribal priorities.** Not only the Pala Band, but the entire Luiseño Tribe, regards Gregory Mountain as a sacred site. This site is important spiritually, culturally, educationally and historically to the well-being and very survival of the local tribal culture. No mitigations can make it acceptable to dump trash at the foot of Gregory Mountain.

In sum, no permit conditions that could be attached to a SWFP for the proposed landfill at the Gregory Canyon location could make this project anything other than an environmental justice catastrophe. The permit must be denied.

## **WATER QUALITY**

It is imperative that the LEA recognize that permitting decisions for landfill projects have public health impacts for many centuries. Your responsibility is to all members of the public potentially affected by this project, not only those of this generation. Future generations did not get to vote on Proposition C, but will have to deal with the dumpsite. This is particularly true for the water quality issues presented by this proposed location.

### **Project is proposed in an unacceptable location due to impacts to precious water supplies and local rivers**

EHC is deeply concerned about the water quality impacts of this project. The San Luis Rey River is a valuable natural riparian habitat, spiritual, and recreational area. The project also threatens a critically important aquifer and the San Rey River Basin that provide potable water for domestic wells, three water districts, and the City of Oceanside. The LEA must ensure that these critical water sources are protected and recognize the certainty that the landfill's liner will leak someday.

There are significant concerns related to hydrogeology and surface and groundwater sources with this project. The LEA must examine closely the effect of the location of the dump on fractured bedrock and the difficulty (if not impossibility) of monitoring leachate effectively for time period that the contamination from the dump will threaten the river (much longer than the anticipated 30 year active life span of the project).

The LEA would be remiss in permitting a dump where water quality is difficult to monitor and where ground water and surface waters are regularly used for drinking water and agricultural uses.

### **California Steelhead Trout needs full protection and requires denial of the dump**

The San Luis Rey river is one of our region's most precious rivers. It is one of only two rivers that are essential for the recovery of the California Steelhead Trout in our area and viewed as high potential for redds (nests) for the species. The San Luis Rey is listed as critical habitat for this species. Our concern is that the damage from this dump will foreclose our opportunity forever to restore this species to the river.

### **Project cannot be allowed as it will worsen conditions of the river**

It is also listed on the 303(d) list of impaired water bodies meaning we need to develop solutions to restore it—not add more pollution. The analysis must demonstrate how this project will improve and not worsen the condition of the river.

### **There is no such thing as a 'zero-discharge' landfill**

The inevitability of leakage and leachate from the landfill must be fully analyzed and addressed for the length of time that the pollution is available. All impacts to water resources from construction and future of the project on and off-site must be analyzed and not just impacts to 2 acres of fill and not just for the 30 active life of the project. In addition, impacts of storm events and overflows must be analyzed and how funding of containment ponds will be funded for 1,000 years.

### **Impacts of pollution from the landfill on future residents' drinking water must be assessed.**

We also think it is imperative that the LEA reassess the use of Gregory Canyon and the surrounding area for the proposed landfill in light of the changes that are planned for the San Luis Rey River Valley. Whereas when the proposed site was identified in the 1990s the area was rural with few houses, there are now a number of approved and proposed projects in the valley that will add many residents in the area. The impact on future access to clean water must be part of the analysis of the impacts of the proposed project.

Effectiveness of commitments to protect underlying water resources by capturing the percolating rainfall and water that is applied to the site in previous analyses have been based on no evidence and must be critically evaluated. Such 'safety' claims, like those related to off-shore oil drilling, should serve as a warning. They are not credible. The LEA must think beyond our own generation; in 500 years the trash will not have fully degraded, and rain will still fall. What will be the condition of the liner in 500 years? In 1,000 years? The LEA must consider the environmental impacts of water percolating through the waste over the entire time that waste will be present at the site.

### **Climate change impacts on water supply have not been assessed**

The San Diego Foundation Regional Focus Study 2050 provides estimates of the impacts of climate change on the San Diego region out to 2050<sup>i</sup>. This report indicates that water demand will rise, even as water becomes more scarce due to the warming and drying effects of climate change. Among the report's findings:

- Climate-change projections for the Southwestern United States indicate that by 2050, runoff and ground water could decline by an average of about 7 inches/yr over the entire Southwest.
- Recent projections have ranged from about a 6% decline to as much as a 45% decline in Colorado River flows.
- The Water Authority predicts an increase in water demand of around 24%, from 668,000 acre-feet/yr (the 2001-2005 average) to about 830,000 acre-feet/yr in 2030: 70% of this demand is expected to come from imported sources. The estimated demand in 2050 is 915,000 acre-feet/yr.
- Overall, the sources of most of San Diego's imported water are likely to be challenged due to climate change effects. These shortfalls in water supplies represent a significant concern to the San Diego region.

While the precise impacts of climate change on water supply in our region can only be estimated, the direction of the trends is clear. The region will become hotter and drier, imported sources will diminish, and the San Luis Rey River will become ever more critical as a local source of fresh water. In its assessment of the costs and benefits of placing a landfill in Gregory Canyon, the LEA must consider the impacts of climate change on the region's water supply over the next several decades at least. While the purported benefits of the landfill will rapidly diminish,

the hazards of a landfill near the river will become increasingly more consequential. Future residents of our region will scarcely believe our recklessness in endangering such a precious water resource.

In order to protect public health and safeguard the river, the LEA must deny the SWFP for the proposed landfill. Thank you for the opportunity to comment on this matter.

Sincerely,

Joy Williams

Research Director

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<sup>i</sup> San Diego Foundation Regional Focus Study 2050: Climate Change Related Impacts to the San Diego Region by 2050, Summary Prepared for the 2008 Climate Change Impacts Assessment, Second Biennial Science Report to the California Climate Action Team.